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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

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6 CLARENCE A. BRANCH, III

7 Plaintiff,

8 v.

9 UNITED STATES OF AMERICA,
10 DIRECTOR OF COMMERCE, et al.,

11 Defendants.
12

Case No. 2:18-cv-00401-JAD-BNW

ORDER

13 Pro se plaintiff Clarence A. Branch brings this lawsuit and moves to proceed *in forma*
14 *pauperis*. (IFP Application (ECF No. 1).) Plaintiff submitted the affidavit required by 28 U.S.C.
15 § 1915(a) showing an inability to prepay fees or costs or give security for them. Therefore,
16 Plaintiff's request to proceed *in forma pauperis* will be granted. The court now screens Plaintiff's
17 complaint (ECF No. 1-1) as required by 28 U.S.C. § 1915(e)(2).

18 **I. ANALYSIS**

19 **A. Screening standard**

20 Upon granting a request to proceed *in forma pauperis*, a court must screen the complaint
21 under 28 U.S.C. § 1915(e)(2). In screening the complaint, a court must identify cognizable
22 claims and dismiss claims that are frivolous, malicious, fail to state a claim on which relief may
23 be granted, or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C.
24 § 1915(e)(2). Dismissal for failure to state a claim under § 1915(e)(2) incorporates the standard
25 for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Watison v. Carter*,
26 668 F.3d 1108, 1112 (9th Cir. 2012). To survive § 1915 review, a complaint must "contain
27 sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face."
28 *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The court liberally construes pro se complaints

1 and may only dismiss them “if it appears beyond doubt that the plaintiff can prove no set of facts
2 in support of his claim which would entitle him to relief.” *Nordstrom v. Ryan*, 762 F.3d 903, 908
3 (9th Cir. 2014) (*quoting Iqbal*, 556 U.S. at 678).

4 In considering whether the complaint is sufficient to state a claim, all allegations of
5 material fact are taken as true and construed in the light most favorable to the plaintiff. *Wylar*
6 *Summit P’ship v. Turner Broad. Sys. Inc.*, 135 F.3d 658, 661 (9th Cir. 1998) (citation omitted).
7 Although the standard under Rule 12(b)(6) does not require detailed factual allegations, a plaintiff
8 must provide more than mere labels and conclusions. *Bell Atlantic Corp. v. Twombly*, 550 U.S.
9 544, 555 (2007). A formulaic recitation of the elements of a cause of action is insufficient. *Id.*
10 Unless it is clear the complaint’s deficiencies could not be cured through amendment, a pro se
11 plaintiff should be given leave to amend the complaint with notice regarding the complaint’s
12 deficiencies. *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

13 **B. Screening the complaint**

14 Here, Plaintiff filled out a form “Third-Party Complaint” and attached several documents
15 to it. The documents attached to the complaint include documents from the Ninth Circuit Court of
16 Appeals, the District of Columbia, the Southern District of New York, the United States Court of
17 Appeals for the District of Columbia, the Northern District of California, the United States Court
18 of Federal Claims, as well as other documents. However, it is impossible for the court to tell,
19 from either the Third-Party Complaint or the documents attached thereto, what Plaintiff’s claims
20 are. There is not even a general indication of what claims Plaintiff is attempting to bring or the
21 facts underlying those claims.

22 Even liberally construing the complaint, the court finds Plaintiff does not state a claim
23 against any of the entities mentioned in the complaint. Plaintiff does not provide sufficient
24 factual allegations for the court to understand which legal claims he seeks to assert against which
25 defendants. Without additional factual allegations regarding the underlying dispute and the
26 various entities’ roles in the case, the court cannot evaluate whether Plaintiff’s complaint states a
27 claim against any defendant. Additionally, Plaintiff does not include any statement of the
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1 grounds for the court's jurisdiction in this case. The court therefore will order dismissal of
2 Plaintiff's complaint without prejudice for Plaintiff to file an amended complaint.

3 If Plaintiff chooses to file an amended complaint, the document must be titled "Amended
4 Complaint." The amended complaint must contain a short and plain statement of the grounds for
5 the court's jurisdiction. *See* Fed. R. Civ. P. 8(a)(1). Additionally, the amended complaint must
6 contain a short and plain statement describing the underlying case and each defendant's
7 involvement in the case. *See* Fed. R. Civ. P. 8(a)(2). Although the Federal Rules of Civil
8 Procedure adopt a flexible pleading standard, Plaintiff must still give each defendant fair notice of
9 Plaintiff's claims against it and of Plaintiff's entitlement to relief.

10 Additionally, Plaintiff is advised that if he files an amended complaint, the original
11 complaint (ECF No. 1-1) no longer serves any function in this case. As such, the amended
12 complaint must be complete in and of itself without reference to prior pleadings or other
13 documents. The court cannot refer to a prior pleading or other documents to make Plaintiff's
14 amended complaint complete.

15 **II. CONCLUSION**


16 IT IS THEREFORE ORDERED that Plaintiff's application to proceed *in forma pauperis*
17 (ECF No. 1) is GRANTED. Plaintiff is permitted to maintain this action to conclusion without
18 prepaying fees or costs or giving security for them.

19 IT IS FURTHER ORDERED that the clerk of court must detach and separately file
20 Plaintiff's complaint (ECF No. 1-1).

21 IT IS FURTHER ORDERED that Plaintiff's complaint be dismissed without prejudice.

22 IT IS FURTHER ORDERED that Plaintiff file an amended complaint by December 20,
23 2019.

24
25 DATED: November 18, 2019

26
27 
28 BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE